

September 4, 2009

<REQUESTER>

Formal Ruling 2009-06

Dear <REQUESTER>:

You have requested a ruling on the application of Vermont sales tax to several service offered by <COMPANY> to its customers.

<COMPANY> is a manufacturer of motor fuel dispensing equipment. <COMPANY> is domiciled in <STATE> and is registered to collect sales tax in all states except <STATE>. You stated that <COMPANY> has nexus only with <STATE>.

The services offered by <COMPANY> fall into four general categories:

1) Operating a call center (Help Desk) that takes calls from customers about <COMPANY> products. If issues cannot be resolved over the telephone, the call is transferred to a service desk for further assistance. The service desk will dispatch a third party authorized service technician to the site.

2) Assisting customers to comply with regulations, including permitting and record-keeping, and facilitating construction, closures, tank removal and razing and rebuilding projects with State regulatory agencies and the EPA.

3) Remote monitoring of underground fuel storage tanks, including call center troubleshooting and dispatch of third party service technicians to resolve alarm issues.

4) Provision of compliance management services whereby <COMPANY> monitors sites, collects data and issue reports to the customer. This is done remotely through the customer's network IP address or using a modem.

The specific question you ask is "at which location does the state consider the tax status: at the point where the service is performed or the location at which the benefit is received?"

Vermont imposes a 6 percent sales tax on retail sales in the state. The tax applies to charges for tangible personal property, admission to places of amusement and certain enumerated services, including public utility service, fabrication, telecommunication and directory assistance. 32 V.S.A. § 9771. Vermont does not have a broad-based tax on services and thus only those services that are specifically enumerated in the statute are subject to tax. The services described in your letter and summarized above are not subject to the Vermont sale tax. This is true regardless of which state the service is considered to be rendered.

Note that the sale of prewritten computer software is subject to the Vermont sales tax regardless of whether delivered electronically or in tangible form. 32 V.S.A. § 9701(7)(definition of tangible personal property). It does not appear from your description that <COMPANY> sells software to facilitate its monitoring services, but you should be aware of this as in the event that software sales ever become a part of <COMPANY>'s operations.

This ruling will be made public after deletion of the parties' names and identifying information. A copy of this ruling showing the proposed deletions is attached. Further deletions may be requested within thirty days; however, the Commissioner has final discretion as to deletions.

This ruling is issued solely to your business and is limited to the facts presented as affected by current statutes and regulations. Other taxpayers may refer to this ruling for general guidance, but the Department is not bound by the ruling in the case of any other taxpayer or in the case of any change in the relevant statute or regulations.

You have the right to appeal this ruling within thirty days.

Sincerely,

Molly Bachman
General Counsel

Approved this ____ day of September, 2009.

Richard Westman
Commissioner of Taxes